

106TH CONGRESS
2D SESSION

H. R. 4727

To amend title XVIII of the Social Security Act with respect to payments made under the prospective payment system for home health services furnished under the Medicare Program.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2000

Mr. MCGOVERN (for himself, Mr. HILLEARY, Mr. WEYGAND, and Mr. PETERSON of Pennsylvania) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act with respect to payments made under the prospective payment system for home health services furnished under the Medicare Program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Equal Access to Medi-
5 care Home Health Care Act of 2000”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Over 30,000,000 beneficiaries under the
4 medicare program under title XVIII of the Social
5 Security Act rely on providers of home health serv-
6 ices to provide them with cost-effective, high quality
7 home health care.

8 (2) The medicare home health benefit enables
9 many medicare beneficiaries to remain at home and
10 to live with dignity and independence despite serious
11 health conditions.

12 (3) The medicare home health benefit helps al-
13 leviate the burden of medicare beneficiaries on hos-
14 pitals and skilled nursing facilities, where services
15 provided to medicare beneficiaries are more expen-
16 sive.

17 (4) The amendments made by the Balanced
18 Budget Act of 1997 to title XVIII of the Social Se-
19 curity Act were originally projected to cut
20 \$16,100,000,000 from the medicare home health
21 benefit between fiscal years 1998 and 2002.

22 (5) The Congressional Budget Office recently
23 projected that those amendments made by the Bal-
24 anced Budget Act of 1997 will actually cut
25 \$69,400,000,000 from the medicare home health
26 benefit between fiscal years 1998 and 2002.

1 (6) The recent projections by the Congressional
2 Budget Office represent more than 4 times the
3 amount of the reduction in the medicare home
4 health benefit originally projected to take effect as
5 a result of the amendments made by the Balanced
6 Budget Act of 1997.

7 (7) The failure of the Health Care Financing
8 Administration to disburse payments under the in-
9 terim payment system established by the Balanced
10 Budget Act of 1997 under section 1861(v)(1)(L) of
11 the Social Security Act in a timely manner has re-
12 sulted in medicare overpayments to thousands of
13 providers of home health services, leaving many of
14 these providers on precarious financial footing.

15 (8) Access to care, particularly for high-cost
16 and long-term patients, has become a growing prob-
17 lem because the amount of payment for these types
18 of patients under the current interim payment sys-
19 tem is insufficient.

20 (9) Under the proposed regulation imple-
21 menting the new prospective payment system, 50
22 percent of the prospective payment amount will be
23 paid upon receipt and processing of the providers
24 initial claim for reimbursement and 50 percent of

1 that amount will be delayed until the final claim is
2 processed at the end of the 60-day episode period.

3 (10) Medicare beneficiaries incur most home
4 health care expenses during the first 30 days of a
5 60-day episode period and providers of home health
6 services do not have large cash reserves to support
7 delayed payment for those services under the medi-
8 care program.

9 (11) It is essential that the Administrator of
10 the Health Care Financing Administration ensure
11 that the initial payment to providers of home health
12 services during a 60-day episode period of home
13 health care provided under the medicare home
14 health benefit provides a steady cash flow for those
15 providers so that medicare beneficiaries may con-
16 tinue to receive necessary home health services.

17 (12) Studies by the Medicare Payment Advisory
18 Commission established under section 1805 of the
19 Social Security Act have indicated that certain popu-
20 lations of medicare beneficiaries risk not receiving
21 necessary home health services because of the sys-
22 temic changes made by the Balanced Budget Act of
23 1997.

24 (13) Because the aggregate amount of payment
25 made for all home health services during the first

1 year in which payment will be made for those serv-
 2 ices under the prospective payment system is limited
 3 to the amount that would have been paid in such
 4 year for those services under the interim payment
 5 system, there is an enormous risk that this limited
 6 amount will be insufficient, resulting in a perpetua-
 7 tion of the current crisis under the interim payment
 8 system for home health services.

9 **SEC. 3. ELIMINATION OF 15 PERCENT REDUCTION IN PAY-**
 10 **MENT RATES UNDER THE MEDICARE PRO-**
 11 **SPECTIVE PAYMENT SYSTEM FOR HOME**
 12 **HEALTH SERVICES.**

13 (a) IN GENERAL.—Section 1895(b)(3)(A) of the So-
 14 cial Security Act (42 U.S.C. 1395fff(b)(3)(A)), as amend-
 15 ed by sections 302(b) and 303(f) of the Medicare, Med-
 16 icaid, and SCHIP Balanced Budget Refinement Act of
 17 1999 (113 Stat. 1501A–359, 361), as enacted into law
 18 by section 1000(a)(6) of Public Law 106–113, is amended
 19 to read as follows:

20 “(A) INITIAL BASIS.—Under such system
 21 the Secretary shall provide for computation of
 22 a standard prospective payment amount (or
 23 amounts). Such amount (or amounts) shall ini-
 24 tially be based on the most current audited cost
 25 report data available to the Secretary and shall

1 be computed in a manner so that the total
2 amounts payable under the system for the 12-
3 month period beginning on the date the Sec-
4 retary implements the system shall be equal to
5 the total amount that would have been made
6 if the system had not been in effect and if sec-
7 tion 1861(v)(1)(L)(ix) had not been enacted.
8 Each such amount shall be standardized in a
9 manner that eliminates the effect of variations
10 in relative case mix and area wage adjustments
11 among different home health agencies in a
12 budget neutral manner consistent with the case
13 mix and wage level adjustments provided under
14 paragraph (4)(A). Under the system, the Sec-
15 retary may recognize regional differences or dif-
16 ferences based upon whether or not the services
17 or agency are in an urbanized area.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall take effect as if included in the enact-
20 ment of the Medicare, Medicaid, and SCHIP Balanced
21 Budget Refinement Act of 1999 (Public Law 106–113).

22 **SEC. 4. OVERPAYMENTS.**

23 (a) 36-MONTH REPAYMENT PERIOD.—In the case of
24 an overpayment by the Secretary of Health and Human
25 Services to a home health agency for home health services

1 furnished during a cost reporting period beginning on or
2 after October 1, 1997, as a result of payment limitations
3 provided for under clause (v), (vi), or (viii) of section
4 1861(v)(1)(L) of the Social Security Act (42 U.S.C.
5 1395x(v)(1)(L)), with respect to the repayment by the
6 home health agency of such overpayment, interest shall
7 accrue on the outstanding balance of that overpayment as
8 provided in subsection (b).

9 (b) INTEREST ON OVERPAYMENT AMOUNTS.—

10 (1) 36-MONTH GRACE PERIOD.—No interest
11 shall accrue on the outstanding balance of the
12 amount of overpayment during the 36-month period
13 beginning on the date of notification of the overpay-
14 ment.

15 (2) OVERDUE BALANCES.—Interest shall accrue
16 on any outstanding balance of the amount of over-
17 payment after the termination of such 36-month pe-
18 riod. Interest shall accrue under this paragraph at
19 the rate of interest charged by banks for loans to
20 their most favored commercial customers, as pub-
21 lished in the Wall Street Journal on the Friday im-
22 mediately following the date of the enactment of this
23 Act.

24 (c) TERMINATION.—The provisions of this section
25 shall not apply to an overpayment made by the Secretary

1 of Health and Human Services to a home health agency
 2 for cost reporting periods, or portions of cost reporting
 3 periods, beginning on or after the date of the implementa-
 4 tion of the prospective payment system for home health
 5 services under section 1895 of the Social Security Act (42
 6 U.S.C. 1395fff).

7 (d) EFFECTIVE DATE.—The provisions of subsection
 8 (a) shall take effect as if included in the enactment of the
 9 Balanced Budget Act of 1997.

10 **SEC. 5. ADDITIONAL PAYMENTS UNDER THE PROSPECTIVE**
 11 **PAYMENT SYSTEM FOR SERVICES FUR-**
 12 **NISHED IN RURAL AREAS AND SECURITY**
 13 **SERVICES.**

14 (a) INCREASE IN PAYMENT RATES FOR RURAL
 15 AGENCIES.—Section 1895(b) of the Social Security Act
 16 (42 U.S.C. 1395fff(b)) is amended by adding at the end
 17 the following new paragraph:

18 “(7) ADDITIONAL PAYMENT AMOUNT FOR
 19 SERVICES FURNISHED IN RURAL AREAS.—In the
 20 case of home health services furnished in a rural
 21 area (as defined in section 1886(d)(2)(D)), the Sec-
 22 retary shall provide for an addition or adjustment to
 23 the payment amount otherwise made under this sec-
 24 tion for services furnished in a rural area in an

1 amount equal to 10 percent of the amount otherwise
 2 determined under this subsection.”.

3 (b) ADDITIONAL PAYMENT FOR SECURITY SERV-
 4 ICES.—Section 1895(b) of such Act (42 U.S.C.
 5 1395fff(b)(3)), as amended by subsection (a), is further
 6 amended by adding at the end the following paragraph:

7 “(8) ADDITIONAL PAYMENT FOR SECURITY
 8 SERVICES.—The Secretary shall provide for an addi-
 9 tion or adjustment to the payment amount otherwise
 10 made under this section for the reasonable cost (as
 11 defined in section 1861(v)(1)(A)) of furnishing pro-
 12 tective services to individuals furnishing home health
 13 services under this title in areas where such individ-
 14 uals are at risk of physical harm, as determined by
 15 the Secretary.”.

16 (c) WAIVING BUDGET NEUTRALITY.—Section
 17 1895(b)(3) of such Act (42 U.S.C. 1395fff(b)(3)) is
 18 amended by adding at the end the following new subpara-
 19 graph:

20 “(D) NO ADJUSTMENT FOR ADDITIONAL
 21 PAYMENTS FOR RURAL SERVICES AND SECU-
 22 RITY SERVICES.—The Secretary shall not re-
 23 duce the standard prospective payment amount
 24 (or amounts) under this paragraph applicable
 25 to home health services furnished during a pe-

1 riod to offset the increase in payments resulting
 2 from the application of paragraph (7) (relating
 3 to services furnished in rural areas) and para-
 4 graph (8) (relating to costs of security serv-
 5 ices).”.

6 (d) EFFECTIVE DATE.—The amendments made by
 7 this section shall take effect on the date that is 270 days
 8 after the date of the enactment of this Act.

9 **SEC. 6. RULE OF CONSTRUCTION RELATING TO**
 10 **TELEHOMEHEALTH SERVICES.**

11 (a) IN GENERAL.—Section 1895(b) of such Act (42
 12 U.S.C. 1395fff(b)(3)), as amended by section 3, is further
 13 amended by adding at the end the following paragraph:

14 “(9) RULE OF CONSTRUCTION RELATING TO
 15 TELEHOMEHEALTH SERVICES.—

16 “(A) IN GENERAL.—Nothing in this sec-
 17 tion, or in section 4206(a) of the Balanced
 18 Budget Act of 1997 (42 U.S.C. 1395l note),
 19 shall be construed as preventing a home health
 20 agency receiving payment under this section
 21 from furnishing a home health service via a
 22 telecommunications system.

23 “(B) LIMITATION.—The Secretary shall
 24 not consider a home health service provided in

1 the manner described in subparagraph (A) to
2 be a home health visit for purposes of—

3 “(i) determining the amount of pay-
4 ment to be made under this section; or

5 “(ii) any requirement relating to the
6 certification of a physician required under
7 section 1814(a)(2)(C).”.

8 (b) REPORT.—Not later than one year after the date
9 of the enactment of this Act, the Secretary of Health and
10 Human Services shall submit to Congress a report con-
11 taining the recommendations of the Secretary with respect
12 to the feasibility and advisability of including home health
13 services furnished by telecommunications systems as a
14 home health service for purposes of—

15 (1) payment for such services under section
16 1895 of the Social Security Act (42 U.S.C. 1395fff),
17 and

18 (2) requirements with respect to physician cer-
19 tification of the need for home health services under
20 section 1814(a)(2)(C) of such Act (42 U.S.C.
21 1395f(a)(2)(C)).

○